

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

Michael J. Holmes,)
)
)
Movant,)
)
) Case No. 4:08 CV 1142
vs.)
)
United States of America,)
)
)
Respondent.)

MOTION FOR CERTIFICATE OF INNOCENCE

COMES NOW Petitioner, by and through undersigned counsel, and hereby respectfully requests that the Court grant a Certificate of Innocence in this matter pursuant to 28 U.S.C. §2513.

1. On June 28, 2006 Michael J. Holmes was convicted by a jury in this court of possession of more than 50 grams of a substance containing cocaine base with intent to distribute and possession of firearms in furtherance of a drug trafficking crime. Pursuant to sentencing guidelines, Petitioner was sentenced to a 20 year term of imprisonment on Count I and a consecutive 5 year term of imprisonment on Count II.

2. Petitioner's conviction was based solely on the testimony of two City of St. Louis police officers, Shell Sharp and Bobby Garrett. When newly-discovered evidence demonstrated the ongoing criminal activity and corruption of these officers, Petitioner filed a Motion To Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. Section 2255.

3. On September 26, 2011, this Court entered its order granting Petitioner's Motion, and finding that (1) the testimony of Sharp and Garrett was completely discredited by the newly-discovered evidence; (2) Petitioner had "consistently maintained that he is innocent and that Sharp and Garrett lied in their testimony[,]" and (3) that the remaining evidence was insufficient

to support Plaintiff's conviction. Petitioner's conviction was vacated and a new trial ordered by this Court. The government then dismissed the underlying indictment, abandoning all charges against Mr. Holmes.

4. Petitioner now seeks a Certificate of Innocence from this Court pursuant to 28 U.S.C. §1495 and 28 U.S.C. § 2513, recognizing his innocence of these false charges. The facts and legal authorities supporting Peitioner's Motion are set forth in his Memorandum in Support of Motion for Certificate of Service, filed herewith and incorporated the same as if fully set forth herein.

WHEREFORE Petitioner hereby respectfully requests that the Court enter its Certificate of Innocence in this matter pursuant to 28 U.S.C. § 2513 and for any other relief the Court deems just, the premises considered.

DOWD & DOWD, P.C.

BY: /s/ Richard K. Dowd
RICHARD K. DOWD (#33383MO)
Attorney for Movant
100 North Broadway, Suite 1600
St. Louis, Missouri 63102
(314) 621-2500
(314) 621-2503 facsimile

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2012, the foregoing was filed electronically with the Clerk of the Court to be served by operation of this Court's electronic filing system.

/s/ Richard K. Dowd